

REMARKS/ARGUMENTS

Claims 1-6 and 12-22 are pending in the present application. Claims 1, 3, 12, 14, 17, 19 and 22 have been amended, and Claims 7-11 have been cancelled, herewith. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 101

Claims 17-21 stand rejected under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. This rejection is respectfully traversed.

With respect to Claim 17, the Examiner states that a claimed computer readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Applicants have amended Claim 1 accordingly. In addition, there is no radio frequency or light wave transmission exception to the computer-readable medium/computer program encoding that is expressly acknowledged by the USPTO's own MPEP as being proper statutory matter. Thus, it is urged that the amendment to Claim 17 has overcome the present rejection.

Therefore, the rejection of Claims 17-21 under 35 U.S.C. § 101 has been overcome.

II. 35 U.S.C. § 102, Anticipation

Claims 8 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bharati (Meditation and Self-Awareness CDs, <http://swamij.com/cd-timer.htm>) retrieved from <http://web.archive.org/> as it appeared on October 22, 2002, hereinafter "Bharati". This rejection is respectfully traversed.

Applicants have cancelled such claims herewith, without prejudice or disclaimer.

Therefore, the rejection of Claims 8 and 9 under 35 U.S.C. § 102 has been overcome.

III. 35 U.S.C. § 103, Obviousness

Claims 10 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bharati. This rejection is respectfully traversed.

Applicants have cancelled such claims herewith, without prejudice or disclaimer.

Therefore, the rejection of Claims 10 and 11 under 35 U.S.C. § 103 has been overcome.

IV. 35 U.S.C. § 103, Obviousness

Claims 1, 3-7, 12, 14-17 and 19-22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bharati in view of James (US Patent No. 6,910,038 B1), hereinafter “James”. This rejection is respectfully traversed.

With respect to Claim 1, Applicants have amended such claim in accordance with the description in the Specification at page 11, lines 18-21; page 14, lines 17-21; Figure 4, block 400. In addition, Claim 1 has been amended to include the features of original Claim 7 (which is thus being cancelled herewith, without prejudice or disclaimer). It is urged that none of the cited references teach or suggest using a session duration (that is received from a data structure containing a schedule) for determining a length of time for an audio track to be recorded on a media, as now expressly recited in Claim 1. For example, the cited Johnson reference uses calendar information to provide an audio playback of the actual calendar entries themselves (Johnson page 4, paragraph [0048] and page 6, paragraph [0057]; Figure 7). The particular times associated with these calendar entries are not used to establish or determine a length of time for an audio file that is created on a storage medium. Accordingly, the amendment to Claim 1 has overcome the present rejection. In addition, per amended Claim 1, pluralities of audio tracks are created on the storage medium disc that correspond to user sessions according to the schedule. While the cited Bharati reference teaches multiple tracks, these tracks have generic, predefined information and are not dynamically customizable during creation of the audio files according to a schedule having user sessions for particular users. The features of Claim 1 advantageously allow for an automated creation of media that is dynamically customized based upon a given calendar, thereby minimizing user co-action and manual steps that would otherwise be required to provide such a customized media. Therefore, it is urged that the amendment to Claim 1 has overcome the present 35 U.S.C. § 103 rejection of such claim.

Applicants traverse the rejection of Claims 3-6 for reasons given above with respect to Claim 1 (of which Claims 3-6 depend upon).

Applicants traverse the rejection of Claims 12, 14-17 and 19-22 for similar reasons to those given above with respect to Claim 1.

Therefore, the rejection of Claims 1, 3-7, 12, 14-17 and 19-22 under 35 U.S.C. § 103 has been overcome.

V. 35 U.S.C. § 103, Obviousness

Claims 2, 13 and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bharati and James in view of Johnson et al. (US Publication No. 2003/0151618 A1), hereinafter "Johnson". This rejection is respectfully traversed for similar reasons to those given above with respect to Claim 1, particularly with respect to the Johnson reference discussion described thereinabove.

Therefore, the rejection of Claims 2, 13 and 18 under 35 U.S.C. § 103 has been overcome.

VI. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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